

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

F.G. CROSTHWAITE, et al., as  
Trustees of the OPERATING  
ENGINEERS' HEALTH AND WELFARE  
TRUST FUND, et al.,

Plaintiffs,

v.

GALLETTI & SONS, INC., aka  
GALLETTI AND SONS, INC., fka  
GALLETTI CONCRETE PUMPING CO.,  
aka GALLETTI CONCRETE, INC.,

Defendant.

No. 12-1242 CW

ORDER DENYING  
PLAINTIFFS'  
REQUEST TO RESET  
HEARING (Docket  
No. 50)

On September 24, 2012, Plaintiffs filed a notice of automatic stay pursuant to 11 U.S.C. § 362 after Defendant Galletti & Sons, Inc. filed for Chapter 7 Bankruptcy. Docket No. 39. On December 10, 2012, Plaintiffs filed a request to re-open the case with respect to Galletti Concrete, Inc., and asked the Court to reset the hearing on Plaintiffs' motion for default judgment, which was pending when the case was stayed. Docket No. 50. Plaintiffs state that their request is based on their recent discovery that Galletti Concrete, Inc. is "a separate entity and not a party to the bankruptcy." Id. at 2.

After reviewing Plaintiffs' papers, the Court denies Plaintiffs' request to re-open the case and reset the hearing for default judgment. Plaintiffs' complaint in this case only names Galletti & Sons, Inc. as a defendant and fails to identify Galletti Concrete, Inc. as separate and distinct entity. Rather, the complaint merely identifies "Galletti Concrete, Inc." as a

1 fictitious business name of Galletti & Sons, Inc. Accordingly,  
2 the Clerk's entry of default against Galletti & Sons, Inc. does  
3 not provide Plaintiffs with a basis for moving for default  
4 judgment against Galletti Concrete, Inc. See Docket No. 12.

5 If Plaintiffs wish to pursue claims against Galletti  
6 Concrete, Inc., they must move for leave to file an amended  
7 complaint under Federal Rule of Civil Procedure 15(a). Their  
8 amended complaint must name Galletti Concrete, Inc. as a defendant  
9 and plead that it is a separate entity from Galletti & Sons, Inc.

10 IT IS SO ORDERED.

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12 Dated: 12/13/2012

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14 CLAUDIA WILKEN  
15 United States District Judge  
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